

REMARKS

In the Office Action, claims 1-3, 5-23, and 25-48 were rejected and claim 49 was allowed. Reconsideration and allowance of all pending claims are requested in view of the points set forth below.

Rejections Under 35 U.S.C. §102

In the Office Action, claims 1-3, 5-23, and 25-48 were rejected under 35 U.S.C. § 102(f) on grounds that Applicants may not have invent the claimed subject matter. In response to the Office Action, Applicants affirm that Ralph Thomas Hocter, Kai Eric Thomenius and Aaron Mark Dentinger, the inventors named in the copending patent application (Serial No., 10/948,434, which is also a continuation-in-part of the present application), contributed any in that application which is subject matter common to the present invention. With the present response, Applicants submit affidavits of Messrs. Hocter, Thomenius and Dentinger under 37 C.F.R. § 1.132 declaring that they are the inventors of the common subject matter of the two applications (the present application and the referenced copending patent application). Thus, it is respectfully requested that the rejection of claims 1-3, 5-23, and 25-48 under 35 U.S.C. § 102(f) be withdrawn as the inventive subject matter in the present application was not invented by an inventive entity different than the applicants.

Double Patenting

A number of provisional rejections were formulated against various claims under the judicially created doctrine of obviousness-type double patenting as being unpatentable over various claims of copending application, Serial No. 10/948,434.

However, MPEP 804 I. B. states that

“[t]he ‘provisional’ double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application *unless that ‘provisional’ double patenting*

rejection is the only rejection remaining in at least one of the applications.” (Emphasis added.)

Applicants respectfully submit that the provisional double patenting rejections will be the only rejections remaining once the rejection under 35 U.S.C. § 102(f) is withdrawn (based the affidavits submitted with the present response). Accordingly, Applicants request that the Examiner reconsider and remove the provisional obviousness-type double patenting rejections.

Conclusion

In view of the points set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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